

REMARKS

A. Status of the Claims

Claims 1, 3, 7, 9-15 and 86-89 are pending in the present application. The Office Action dated May 3, 2004 rejects claims 1, 7, 10-15 and 86-89 under 35 U.S.C. §112, first paragraph for allegedly lack of written description. Claims 1, 3, 7, 9-15 and 86-88 are rejected under 35 U.S.C. §101 as being drawn to non-statutory subject matter. Claims 7 and 87 are rejected under 35 U.S.C. §112, first paragraph, as allegedly lacking written description. The specific grounds for the rejections, and Applicants' responses thereto, are provided herein.

B. Rejection Under 35 U.S.C. §112, First Paragraph

The Action rejects claims 1, 3, 7, 9-15 and 86-89 under 35 U.S.C. §112, first paragraph. The examiner continues to object to language such as “variants” or “related” peptides. Applicants traverse, but in the interest of advancing the prosecution, the claims have been amended to drop reference to these embodiments. Therefore, it is believed that the rejection is overcome.

C. Rejection Under 35 U.S.C. §101

The Action rejects claims 1, 3, 7, 9-15 and 86-88 under 35 U.S.C. §101 as allegedly claiming non-statutory subject matter. Particularly, the Action contends that the claims do not distinguish over a naturally occurring product. The claims have been amended to recite that the peptide is “isolated,” as suggested by the examiner. Therefore, it is believed that the rejection is overcome.

D. Rejection Under 35 U.S.C. §112, First Paragraph

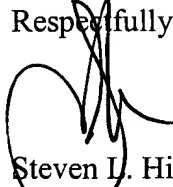
Claims 7 and 87 are rejected under 35 U.S.C. § 112, first paragraph, for alleged lack of written description. The Action alleges that the specification fails to provide support for drugs other than anti-cancer agents. Applicants respectfully traverse the rejection, but in the interest of advancing the prosecution, applicants have amended the claim as suggested by the examiner.

E. Conclusion

Applicants believe that the foregoing remarks fully respond to all outstanding matters for this application. Applicants respectfully request that the rejection of all claims be withdrawn so they may pass to issuance.

The Examiner is invited to contact the undersigned agent at (512) 536-3184 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,


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